

1990

State of Utah v. Ronnie S. Brooks : Brief of Appellant

Utah Court of Appeals

Follow this and additional works at: https://digitalcommons.law.byu.edu/byu_ca1



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Court of Appeals; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

Kenneth R. Brown; attorney for defendant/appellant.

R. Paul Van Dam; attorney general; attorney for plaintiff/appellee.

Recommended Citation

Brief of Appellant, *Utah v. Brooks*, No. 900540 (Utah Court of Appeals, 1990).

https://digitalcommons.law.byu.edu/byu_ca1/2960

This Brief of Appellant is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at

http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html. Please contact the Repository Manager at hunterlawlibrary@byu.edu with questions or feedback.

TAH
OCUMEN
FU

6

A 10

LOCKET NO.

IN THE COURT OF APPEALS

OF THE STATE OF UTAH

STATE OF UTAH,

Plaintiff/Respondent,

VS.

RONNIE S. BROOKS,

Defendant/Appellant.

Case No. 9008

Priority No. 12

BRIEF OF APPELLANT

Appeal from the judgment and conviction of [REDACTED] the crimes of aggravated burglary, a felony of the first degree [REDACTED] and aggravated sexual assault, a felony of the first degree in the Third Judicial District Court in and for Salt Lake County, State of Utah, the Honorable James S. Sawaya, Presiding.

Kenneth R. Brown
10 West 300 South
Salt Lake City, Utah 84101
Telephone (801) 366-3550

Attorneys for Defendant/Appellant

R. Paul Van Dam
Attorney General
236 State Capitol
Salt Lake City, UT 84114
Telephone (801) 538-1015

Attorneys for Plaintiff/Respondent

IN THE COURT OF APPEALS
OF THE STATE OF UTAH

STATE OF UTAH,)	
)	Case No. 900540-CA
Plaintiff/Respondent,)	
)	
vs.)	
)	Priority No. 2
RONNIE S. BROOKS,)	
)	
Defendant/Appellant.)	

BRIEF OF APPELLANT

Appeal from the judgment and conviction of the crimes of aggravated burglary, a felony of the first degree, and aggravated sexual assault, a felony of the first degree in the Third Judicial District Court in and for Salt Lake County, State of Utah, the Honorable James S. Sawaya, Presiding.

Kenneth R. Brown
10 West 300 South, Suite 500
Salt Lake City, Utah 84101
Telephone (801) 363-3550

Attorneys for Defendant/Appellant

R. Paul Van Dam
Attorney General
236 State Capitol
Salt Lake City, UT 84114
Telephone (801) 538-1015

Attorneys for Plaintiff/Respondent

TABLE OF CONTENTS

	<u>Page No.</u>
Table of Cases and Authorities	ii
Jurisdiction of Court of Appeals	1
Statement of The Issues	1
Determinative Constitutional Provisions, Statutes, Ordinances and Rules	1
Statement of the Case	2
Nature of the Case	2
Course of Proceedings	3
Disposition of Trial Court	3
Relevant Facts	3
Summary of Argument	6
Argument	7
Conclusion	13
Certificate of Service	13
Appendix A	14

CONSTITUTIONAL PROVISIONS

Page No.

Sixth Amendment to the United States Constitution	1, 6, 7, 9
Article I, Section 12, Utah State Constitution	2, 7, 9

TABLE OF CASES

Page No.

<u>Boyd v. U.S.</u> , 48 Cr.L., 1459 (1991)	8
<u>Cage v. Louisiana</u> , 498 U.S. -- (1990)	10, 11, 12
<u>Johnson v. Zurbst</u> , 304 U.S. 458, 464 (1938)	6, 10, 11
<u>People v. Curtis</u> , 681 P.2d 503, 514 (Colo. S.Ct. 1984)	8
<u>State v. Buonadonna</u> , 48 Cr.L., 1377	8
<u>State v. Ireland</u> , 773 P.2d 1375, 1380-82 (Utah 1989)	10, 11
<u>State v. Johnson</u> , 774 P.2d 1141, 1147-49 (Utah 1989)	10, 11, 12
<u>State v. LaRocco</u> , 135 Ut.Adv.Rptr. 16 (1990)	9
<u>State v. Pedersen</u> , 802 P.2d 1328, 1331 (Utah Ct.App. 1990)	10, 11
<u>Rock v. Arkansas</u> , 483 U.S. 444, 49-52, (1987)	7, 8, 9

IN THE COURT OF APPEALS
OF THE STATE OF UTAH

STATE OF UTAH,)	
)	Case No. 900540-CA
Plaintiff/Respondent,)	
)	
vs.)	
)	Priority No. 2
RONNIE S. BROOKS,)	
)	
Defendant/Appellant.)	

BRIEF OF APPELLANT

JURISDICTION OF THE COURT OF APPEALS

This is an appeal from a judgment and commitment for the crimes of aggravated burglary, a first degree felony, and aggravated sexual assault, a first degree felony. Counsel herein was appointed after the case was "poured over" to the Utah Court of Appeals from the Utah Supreme Court.

STATEMENT OF THE ISSUES

POINT I	WAS THE DEFENDANT'S RIGHT TO TESTIFY VIOLATED?
POINT II	WHETHER THE REASONABLE DOUBT INSTRUCTION GIVEN BY THE COURT OVER DEFENDANT'S OBJECTION FAILED TO ADEQUATELY DEFINE THE CONCEPT OF REASONABLE DOUBT FOR THE JURY.

DETERMINATIVE CONSTITUTIONAL PROVISIONS,
STATUTES, ORDINANCES AND RULES

The Sixth Amendment to the United States Constitution provides as follows:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of counsel for his defence.

Article I, Section 12 of the Utah Constitution provides as follows:

In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to be confronted by the witnesses against him, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases. In no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; a wife shall not be compelled to testify against her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offense.

STATEMENT OF THE CASE

1. Nature of the Case. Defendant was convicted of aggravated burglary, a first degree felony, and aggravated sexual assault, a first degree felony. The Court sentenced the defendant

to the indeterminate terms of from five years to life on those convictions. From that judgment and commitment, the defendant filed this appeal.

2. Course of Proceedings. Defendant was convicted of aggravated burglary, a first degree felony, and aggravated sexual assault, a first degree felony. The Court sentenced the defendant to the indeterminate terms of from five years to life on those convictions. From that judgment and commitment, the defendant filed this appeal.

After the case was in the appellate court, the Court of Appeals remanded the case to the trial court for the purpose of taking evidence to determine whether or not the defendant's right to testify was violated at the trial court. A hearing on that issue occurred on July 17, 1991, before the Honorable James S. Sawaya. Those proceedings have been filed with the Court of Appeals, and that issue is before this Court.

3. Disposition of Trial Court. On defendant's convictions for two first degree felonies, the Court sentenced the defendant to the indeterminate term of from 5 years to life in the Utah State Prison. On remand from this Court for evidentiary hearing, the trial court determined that the defendant's right to testify was not violated, and issued such an order.

4. Relevant Facts. The victim testified that she encountered a man in the late afternoon near her apartment. The man was black, carrying a child on his shoulders, wearing a green t-shirt and jeans, and had an unusual hair style. [Record, pp.

70-72, 96] He introduced himself to the victim as "Brooks" or "Brock" and said something to the effect that he could "shine some of his love to me." [R., pp. 73] The victim identified the defendant in the courtroom as the man she encountered that afternoon. [R., p. 70]

In the early hours of the following morning, the victim was awakened by a man bending over her "kissing her." [R., p. 74] He had his hand behind her neck and was touching her breast and buttocks underneath her robe. [R., p. 75] The man indicated that she should be quiet and get up and go with him. Id. The victim began struggling and screaming, Id. The man struck the victim's daughter. He held the victim by the hair and struck her approximately a dozen times in the face with his hand. [R., p. 76] The man also kicked the victim in the face several times. [R., p. 77] The victim's face was yellow and swollen for over a month and she had a black eye. [R., pp. 84, 120] Photographs were submitted of the victim which were taken the day following the attack. [R., p. 83]

According to the victim's testimony, the assailant also made several threats to the effect of "you're dead", "you and your kids are dead", "I'm going to kill you", "your kids are dead", "this is what the coke will do for you, bitch." [R., pp. 77, l. 9-12]. The assailant then went to the door, unlocked it and left, leaving the door open. [R., p. 77] The victim described the man as wearing a greenish t-shirt, Levis, and having an unusual braided hair style. [R., pp. 80-81]

The police arrived shortly thereafter. After talking with the victim, Officer Knight testified that he went to apartment no. 3 and spoke with Walt, a witness to the victim's afternoon encounter with "Brook" or "Brock". Walt directed Officer Knight to the defendant's apartment. [R., p. 186.] The police were admitted into the defendant's apartment, where they discovered him and arrested him. Officer Knight testified that defendant was wearing a green t-shirt. [R., pp. 187-188] The defendant was hand-cuffed, brought to the police car and placed in front of the headlights. [R., p. 189] The victim and her roommate were brought to the area. Both the victim and her roommate identified the defendant as the assailant. [R., pp. 81, 148, 217-281] The State also presented the testimony of the victim's roommate, Shannon Radford. Her testimony substantially corroborated the victim's testimony. [R., pp. 140-160]

Additionally, she testified that she watched the assailant leave the apartment from the window. When he was about 15 feet away, he stopped, turned, and looked at her. She described his hair style and the green t-shirt. [R., pp. 144-146] This witness also identified the defendant in the courtroom after viewing photos taken of him shortly after the arrest. [R., p. 149-51]

At the remand hearing, the defendant testified that he wanted to testify but was prevented from testifying by his trial counsel. [Tr. of Hearing, July 17, 1991, p. 4-11] Co-trial counsel for the defendant testified that the defendant wanted to testify and had maintained he wanted to testify throughout the

trial. [Tr. of Hearing, July 17, 1991, p. 13] He further testified that it was trial counsel's belief that the defendant ought not testify and indicated that the defendant was not happy with that advice. [Tr. of Hearing, July 17, 1991, p. 14] Counsel also testified at the hearing that trial counsel did not "let him testify" and he acquiesced in trial counsel's advice not to testify because he had no option, as trial counsel had indicated they were not going to "put him on the stand". [Tr. of Hearing, July 17, 1991, p. 15] Lead trial counsel testified at the hearing that when it became time to decide whether or not the defendant should testify, she expressed to the defendant her opinion that the State's case was weak and the defendant could add nothing, and that based upon that advice, he said "ok". [R., pp. 21-22] She further testified that the reason two lawyers represented Mr. Brooks at the trial was not due to the nature of the charges, but because "Mr. Brooks was a difficult client", and that co-counsel was there as a go between who had direct contact with Mr. Brooks during the trial. [Tr. of Hearing, July 17, 1991, p. 22-23] Lead counsel also testified that no time had been spent preparing Mr. Brooks to testify. [Tr. of Hearing, July 17, 1991, p. 24]

SUMMARY OF ARGUMENT

The defendant in a criminal trial, as created by the Utah Constitution, has the individual right to testify. This right is different than and more expanded than the federal counterpart as contained in the Sixth Amendment. This personal fundamental right cannot be presumed to have been waived by a "silent record". In

order to find a waiver, the trial court must have a personal dialogue with the defendant regarding that right out of the presence of a jury.

The reasonable doubt instruction as given by the Court did not adequately define "reasonable doubt".

ARGUMENT

POINT I THE DEFENDANT'S RIGHT TO TESTIFY AS
CONTAINED IN ARTICLE I, SECTION 12 WAS
VIOLATED WHEN THE DEFENDANT DID NOT
TESTIFY, DESPITE HIS REQUEST TO HIS
LAWYERS TO TESTIFY AND WAIVER CANNOT
BE PRESUMED FROM A SILENT RECORD
BECAUSE OF THE NATURE OF THE RIGHT
INVOLVED.

The United States Supreme Court, in Rock v. Arkansas, 483 U.S. 444, 49-52, (1987) held that "an accused's right to present his own version of events in his own words is even more fundamental to a personal defense than the right to self-representation."

This Supreme Court in Rock located that right in the due process clause and the compulsory process clause of the Sixth Amendment. It also indicated that it is a "necessary corollary to the Fifth Amendment's guarantee against compelled testimony." Since the "right to testify" is one of those "fundamental rights", that right to testify should be deemed waived only when there is record evidence demonstrating "an intentional relinquishment or abandonment of a known right or privilege." Johnson v. Zurbst, 304 U.S. 458, 464 (1938).

The Federal Constitution, as articulated in Rock, supra., found the origin of the right to testify in the Sixth Amendment

compulsory process clause. Under federal analysis, pursuant to Rock, the United States Supreme Court held that a person's right to present evidence through his "own words was more fundamental than even the right to counsel," as well as other known fundamental rights.

The United States Court of Appeals for the District of Columbia, in Boyd v. U.S., 48 Cr.L., 1459 (1991) explained the federal analysis of the right to testify, pursuant to Rock. In Boyd, defendant did not testify, but there was no "on the record" dialogue between the defendant and the court regarding waiver. That court held that "the defendant's right to testify in a criminal trial is a fundamental and personal right that can only be waived by the defendant."

Requiring that the trial court "engage in an on the record discussion with the defendant to ensure that she has knowingly waived her right to testify."

Other state courts have followed this requirement. See example, People v. Curtis, 681 P.2d 503, 514 (Colo. S.Ct. 1984) The New Jersey Supreme Court, in State v. Buonadonna, 48 Cr.L., 1377 held that a Bruton violation (incriminating unredactable statement by a non-testifying co-defendant) was not of the fundamental variety, and therefore, did not require an "on the record" dialogue between the defendant and the court, and may be presumed from silence or may be waived by trial counsel.

The important inquiry appears to be whether or not the right to testify is of the fundamental variety. If it is of that

fundamental variety, then it may not be presumed from silence or waived by counsel, but the court must assure itself, as it does with other fundamental rights, that the defendant understands and is knowingly and intelligently waiving his right to testify.

Article I, Section 12 of the Utah Constitution provides in relevant parts: "In criminal prosecutions, the accused shall have the right to appear and defend in person. . . ." The Utah Supreme Court, in State v. LaRocco, 135 Ut.Adv.Rptr. 16 (1990), in ruling on a search and seizure issue, held that the Utah Constitution may provide a "somewhat different construction than its federal counterpart, based upon the context of the two documents."

The federal constitution and the Rock, supra, analysis derives its viability from the Sixth Amendment and the due process clause of the Fourteenth Amendment. The Utah Constitution is specific. Its language is specific and relies specifically to criminal defendants, in Article I, Section 12.

Under the Utah Constitutional analysis, the defendant's personal right to testify was infringed and could not have been waived by counsel, and this case should be remanded for a new trial on that basis.

POINT II THE REASONABLE DOUBT INSTRUCTION
 FAILED TO ADEQUATELY DEFINE THE
 CONCEPT OF REASONABLE DOUBT FOR THE
 JURY.

An appeal challenging the trial court's refusal to give jury instructions presents a question of law. Therefore, no deference need be given by the reviewing court to the trial

judge's decision. State v. Pedersen, 802 P.2d 1328, 1331 (Utah Ct.App. 1990). The trial court in this case probably did not err in refusing to give the reasonable doubt instruction submitted by the defense. R. 263-64. In making her request, the defense relied on State v. Johnson, 774 P.2d 1141, 1147-49 (Utah 1989), in which a majority of the court adopted the analysis set forth by Justice Stewart in his dissent in State v. Ireland, 773 P.2d 1375, 1380-82 (Utah 1989). R. 263.

The court in Johnson held that an instruction which defined reasonable doubt in terms of making important or weighty decisions in the juror's own lives was inappropriate because it tends to "diminish and trivialize the constitutionally required burden-of-proof standard." 774 P.2d at 1148. The court further held it impermissible to instruct that reasonable doubt is not merely a possibility. The court reasoned that under some circumstances, a possibility very well may constitute reasonable doubt. Whether or not it does depends upon the likelihood of the possibility. Id.

The instruction given by the trial court in this case is as follows:

All presumptions of law, independent of evidence, are in favor of innocence, and a defendant is presumed innocent until he is proved guilty beyond a reasonable doubt. And in case of a reasonable doubt as to whether his guilt is satisfactorily shown, he is entitled to an acquittal.

I have heretofore told you that the burden is upon the State to prove the defendant guilty beyond a reasonable doubt. Proof beyond a reasonable doubt does not require proof to an absolute

certainty. Now by reasonable doubt is meant a doubt that is based on reason and one which is reasonable in view of all the evidence. It must be a reasonable doubt and not a doubt which is merely fanciful or imaginary or based on a wholly speculative possibility. Proof beyond a reasonable doubt is that degree of proof which satisfies the mind, convinces the understanding of those who are bound to act conscientiously upon it and obviates all reasonable doubt. A reasonable doubt is a doubt which reasonable men and women would entertain, and it must arise from the evidence or the lack of evidence in this case.

Applying the standards set forth in Johnson above, the Utah Court of Appeals, in State v. Pedersen, 802 P.2d 1328, 1331-33 (Utah Ct. App. 1990) upheld an identically worded instruction. Quoting Justice Stewart's dissent in Ireland, the court held it permissible to instruct that a "fanciful or wholly speculative possibility ought not to defeat proof beyond a reasonable doubt." Id. at 1332 (quoting State v. Ireland, 773 P.2d 1375, 1382 (Utah 1989) (Stewart J., dissenting)). The court also held that an instruction need not specifically negate the "weighty decisions of life" analogy struck down in Johnson. Simply omitting language of that type was sufficient. Id.

However, an argument could be made requesting the court to reconsider the approval of the instruction in Pedersen in light of the failure of the instruction to adequately define reasonable doubt. In Cage v. Louisiana, 498 U.S. -- (1990), the United States Supreme Court reversed a capital homicide conviction because the reasonable doubt instruction was constitutionally defective. The court in Cage held that an instruction defining reasonable doubt in terms of a "grave uncertainty," "an actual substantial doubt"

or a "moral certainty" suggested a higher degree of doubt necessary for acquittal, thus allowing jurors to find guilt on a degree of proof below that required under the Due Process Clause.

A broad interpretation of Cage supports the argument that "reasonable doubt" is not self-defining. The Court in Cage reviewed the instruction by construing it as a whole and as jurors could have understood it in its entirety. By rejecting the definitions of "moral certainty" and "actual substantial doubt", and then striking down the entire instruction, the court was implicitly stating that due process requires an instruction which provides a meaningful, accurate definition of reasonable doubt. An adequate definition of reasonable doubt is vital if it is to serve its function as a "prime instrument for reducing the risk of convictions resting on factual error." Cage, supra. (quoting In re Winship, 397 U.S. 358, 363 (1970)).

The instruction in Cage was similar to the one used by the trial court in this case. Both repeat the usage of the term "reasonable doubt" in order to define the concept of reasonable doubt. These instructions amount to nothing more than the statement, "reasonable doubt is a doubt which is reasonable." Consequently, the instruction given in this case fails to give the jury any guidance. It does not provide a meaningful definition of the phrase "beyond a reasonable doubt" and is therefore defective.

Additionally, the evidence in this case consisted almost entirely of an eyewitness identification of the appellant at a show-up and a subsequent in-court identification where appellant

was the only black man in the room. Because the jury was made aware of the inherent unreliability of these types of eyewitness identifications, had they been adequately instructed on the concept of reasonable doubt, they may well have acquitted appellant of the charge.

CONCLUSION

For the foregoing reasons, defendant is entitled to a new trial and the case should be remanded for a new trial.

DATED this ____ day of October, 1991.

KENNETH R. BROWN
Attorneys for Defendant/Appellant

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of October, 1991, a true and correct copy of Appellant's Brief was mailed, postage prepaid, to the following:

Attorney General's Office
236 State Capitol
Salt Lake City, UT 84114

APPENDIX A

(a) persons charged with a capital offense when there is substantial evidence to support the charge; or

(b) persons charged with a felony while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when there is *substantial evidence to support the new felony charge*; or

(c) persons charged with a crime, as defined by statute, when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the person would constitute a substantial danger to self or any other person or to the community or is likely to flee the jurisdiction of the court if released on bail.

(2) Persons convicted of a crime are bailable pending appeal only as prescribed by law. 1896

Sec. 9. [Excessive bail and fines — Cruel punishments.]

Excessive bail shall not be required; excessive fines shall not be imposed; nor shall cruel and unusual punishments be inflicted. Persons arrested or imprisoned shall not be treated with unnecessary rigor. 1896

Sec. 10. [Trial by jury.]

In capital cases the right of trial by jury shall remain inviolate. In courts of general jurisdiction, except in capital cases, a jury shall consist of eight jurors. In courts of inferior jurisdiction a jury shall consist of four jurors. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded. 1896

Sec. 11. [Courts open — Redress of injuries.]

All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party. 1896

Sec. 12. [Rights of accused persons.]

In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to be confronted by the witnesses against him, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases. In no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; a wife shall not be compelled to testify against her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offense. 1896

Sec. 13. [Prosecution by information or indictment — Grand jury.]

Offenses heretofore required to be prosecuted by indictment, shall be prosecuted by information after examination and commitment by a magistrate, unless the examination be waived by the accused with

the consent of the State, or by indictment, with or without such examination and commitment. The formation of the grand jury and the powers and duties thereof shall be as prescribed by the Legislature. 1896

Sec. 14. [Unreasonable searches forbidden — Issuance of warrant.]

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, particularly describing the place to be searched, and the person or thing to be seized. 1896

Sec. 15. [Freedom of speech and of the press — Libel.]

No law shall be passed to abridge or restrain the freedom of speech or of the press. In all criminal prosecutions for libel the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. 1896

Sec. 16. [No imprisonment for debt — Exception.]

There shall be no imprisonment for debt except in cases of absconding debtors. 1896

Sec. 17. [Elections to be free — Soldiers voting.]

All elections shall be free, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers, in time of war, may vote at their post of duty, in or out of the State, under regulations to be prescribed by law. 1896

Sec. 18. [Attainder — Ex post facto laws — Impairing contracts.]

No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be passed. 1896

Sec. 19. [Treason defined — Proof.]

Treason against the State shall consist only in levying war against it, or in adhering to its enemies or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act. 1896

Sec. 20. [Military subordinate to the civil power.]

The military shall be in strict subordination to the civil power, and no soldier in time of peace, shall be quartered in any house without the consent of the owner; nor in time of war except in a manner to be prescribed by law. 1896

Sec. 21. [Slavery forbidden.]

Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within this State. 1896

Sec. 22. [Private property for public use.]

Private property shall not be taken or damaged for public use without just compensation. 1896

Sec. 23. [Irrevocable franchises forbidden.]

No law shall be passed granting irrevocably any franchise, privilege or immunity. 1896

AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES

AMENDMENTS I-X [BILL OF RIGHTS] AMENDMENTS XI-XXVI

AMENDMENT I

[Religious and political freedom.]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II

[Right to bear arms.]

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT III

[Quartering soldiers.]

No Soldier shall, in time of peace, be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV

[Unreasonable searches and seizures.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V

[Criminal actions — Provisions concerning — Due process of law and just compensation clauses.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

[Rights of accused.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be con-

fronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of counsel for his defence.

AMENDMENT VII

[Trial by jury in civil cases.]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII

[Bail — Punishment.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX

[Rights retained by people.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X

[Powers reserved to states or people.]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT XI

[Suits against states — Restriction of judicial power.]

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

AMENDMENT XII

[Election of President and Vice-President.]

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three